

Agenda Date: June 15, 2005
Item Number: A3

Docket: UT-050309

Companies: SBC Communications Inc. and AT&T Corp.

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Recommendation:

Take no action on the notice of the merger between SBC Communications Inc. and AT&T Corp.

Background:

On February 28, 2005, SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") (together, "the Parties") provided notice to the Commission of the Parties' agreement for SBC to acquire AT&T.

SBC's subsidiaries, SBC Telecom, Inc. ("SBC-T") and SBC Long Distance, Inc., are registered in Washington State as telecommunications companies and are classified as competitive telecommunications companies. AT&T's subsidiaries, AT&T Communications of the Pacific Northwest, Inc. ("AT&T-PNW"), TCG-Seattle and TCG-Oregon, are likewise registered, price-listed, and classified as competitive telecommunications companies. Pursuant to RCW 80.36.320, the Commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition.

The Federal Communications Commission and several states, including California, New York, Minnesota, and Wyoming, have jurisdiction over the merger of SBC and AT&T. Merger applications are currently pending in those jurisdictions.

Discussion:

WAC 480-121-063 sets forth certain regulatory requirements that may be waived for competitively classified telecommunications companies including those for transfers of property. In its competitive classification orders for SBC-T and AT&T-PNW, the

Commission waived the regulatory requirements for transfers of property. The Commission may, by order, revoke any waivers it grants if it determines that revocation is necessary to protect the public interest.

The Communications Workers of America is concerned that the merger may impact employment and the quality of service provided to customers. Eschelon Telecom of Washington, Inc. suggests that "the merger of these two powerful telecommunications companies will leave little leverage for small customers/competitors to obtain fair and appropriately priced access to wholesale network facilities."

It does not appear the merger will impact the existence of effective competition for the services offered by these companies. SBC (including affiliates) has less than two-tenths of one percent of the total access lines in the state. AT&T (including affiliates) has less than 3% of the total access lines in the state. The merger will result in a total of less than 3.2% of total access lines for the combined companies. While SBC has a market presence in Washington State, it is not a huge entity. AT&T's local business market has diminished considerably while it is not adding new residential customers.

Conclusion:

The Commission should take no action on the notice of the merger between SBC Communications Inc. and AT&T Corp. Taking no action at this time would not preclude the Commission from taking action at a later date.